IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 316 of 2005

SHIV LAL & ANR
V/S
THE SECETARY, M.B., KAPASAN

Mr. B.R.MEHTA, for the appellant / petitioner

Date of Order : 18.10.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant. Perused the impugned judgments.

It has clearly been found by both the learned Courts below that the plaintiff has failed to establish his legal possession over the land, the witnesses of the plaintiff have clearly deposed that they don't know, as to whether possession was delivered to Jamna Lal, and that some 5-7 years ago, they have already been dispossessed. It has also been found that the plaintiff has not led any evidence about having lost the Patta. Thus, the issues No.1 and 2 have been decided against the plaintiff by both the learned Courts below. It has also been found that the proposal of selling the land to the plaintiff was not approved by the Collector, and therefore, Patta was not issued to Jamna Lal. It has been believed that Patta in respect of the land in question was never issued to Jamna Lal by the Municipality.

In my view, these findings are pure findings of fact, and when the plaintiff is not in possession, the suit for mere injunction has rightly been dismissed by the learned Courts below.

The appeal thus, does not involve any substantial question of law. The same is, therefore, dismissed summarily.

(N P GUPTA),J.

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